IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4466 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

R M KAWA

Versus

DIRECTOR

Appearance:

MR HASIT JOSHI for Petitioner

MR RV DESAI ASSTT GOVERNMENT PLEADER for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 25/08/2000

ORAL JUDGEMENT

#. Heard Mr.Hasit Joshi, learned advocate appearing on behalf of the petitioner and Mr.R. V. Desai, learned AGP for respondents.

#. The petitioner has challenged the transfer order dated 29th June, 1992 - Annexure-D on page 17 of the petition transferring him from Junagadh to Jamnagar. The affidavit-in-reply has been filed by the respondent on 24th January, 1994. Prior to that, this Court has issued RULE and granted ad-interim relief in terms of para-20(B) of the petition on 31st July, 1992 and said ad interim relief has continued till today. According to the learned advocate, appearing on behalf of the petitioner at present the petitioner is working at Junagadh and he is under suspension. In the affidavit-in-reply filed on behalf of the respondent wherein, averment has been made that the order of transfer has been passed in the interest of administration as well as public interest.

#. But the fact remains that the transfer order dated 29th June, 1992 has been challenged in the present petition and stay granted by this Court directing not to implement and execute the trasfer order dated 29th June, 1992, has been in operation for more than 8 years by now. Considering this fact, that the transfer order has been stayed by this Court and more than 8 years have been passed and therefore in the interest of justice, this Court is of view that the petitioner will make representation to the respondent No.1 against the present transfer order dated 29th June, 1992. Therefore, as and when such representation is received by the respondent No.1, the same shall be considered by the respondent No.1 in accordance with law and relevant rules and regulations. However, it is observed that the respondent No. 1 shall decide the such representation within some reasonable time.

#. In view of this, it is directed to the petitioner to make representation against the transfer order impugned in the petition to the respondent No.1 within a period of two weeks from the receipt of this order and after receiving such representation by the respondent No. 1, the respondent No. 1 will decide the same as expeditiously as possible within some reasonable time. During the pendency of such representation, the ad-interim relief granted by this Court on 31st July, 1992 will remain in operation till decision is taken by the respondent No.1. If the petitioner will fail to make such representation within 15 days from receipt of this order, against the transfer order impugned in this petition, in that case, the ad-interim relief which has been in operation till date, will automatically stand vacated. In view of aforesaid observations and directions, the petition is disposed of accordingly. Rule discharged. Directions accordingly.

Date : 25-8-2000 [H.K.Rathod, J.]

#kailash#